

HC

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 JUL 11 AM 9:42

08 MJ2102

UNITED STATES OF AMERICA,

Plaintiff,

v.

(1) **Hugo Arturo CANDELARIA-Oviedo,**  
Defendant

(2) **Jose Alfredo PALACIOS-Hernandez,**  
Defendant

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

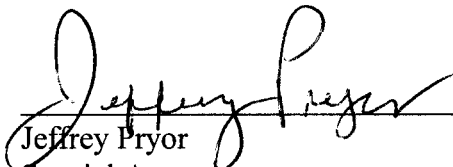
COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(2)(B)(ii)  
Alien Smuggling - Transportation

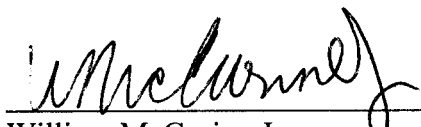
The undersigned complainant, being duly sworn, states:

On or about **July 10, 2008**, within the Southern District of California, Defendant **Hugo Arturo CANDELARIA-Oviedo** and Defendant **Jose Alfredo PALACIOS-Hernandez**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Anselmo GONZALEZ-Sayas, Noe ZAVALA-Pena, and Jose ARGUMEDO-Caseres** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
Jeffrey Pryor  
Special Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 11<sup>th</sup> DAY OF JULY, 2008.

  
William McCurine Jr.  
United States Magistrate Judge

### STATEMENT OF FACTS

The complainant states that, **Anselmo GONZALEZ-Sayas, Noe ZAVALA-Pena, and Jose ARGUMEDO-Caseres** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

I declare under penalty of perjury, the following is true and correct:

On July 10, 2008, Border Patrol Agent Carlos Ochoa was operating a thermal imaging system near Tecate, California. Tecate, California is located adjacent to the United States / Mexico international border. The thermal imaging system allows the operator to observe areas during hours of darkness by illuminating an object's heat signature. A human body emits a thermal heat signature that is readily visible on the thermal imaging system's monitor.

At approximately 2:55 am, Agent Ochoa observed a tractor trailer combination truck enter a truck lot, which is located on Emery Road in Tecate, California. The truck lot is approximately three-quarters of a mile north of the U.S. / Mexico international border. Agent Ochoa stated that the truck backed into the truck lot and parked near a small ditch. Agent Ochoa then observed the driver of the truck, later identified as Hugo CANDELARIA-Oviedo, exit the truck and walk to the ditch. Agent Ochoa then observed several individuals exit from the ditch and follow CANDELARIA to the rear of the truck. Agent Ochoa then observed CANDELARIA return to the driver's compartment of the truck. Suspecting that the truck was engaged in alien smuggling, Agent Ochoa notified Border Patrol agents who responded to the truck lot.

At approximately 3:00 am, Border Patrol agents approached the truck and found the trailer locked. Agents observed CANDELARIA attempting to conceal himself in the sleeper area of the driver's compartment. Agents identified themselves as Border Patrol agents to CANDELARIA. At about the same time, other Border Patrol agents approached the rear trailer doors where the suspected undocumented aliens were last observed. Agents observed several footprints at the entrance to the trailer. Additionally, Agents found footprints originating in the previously mentioned ditch continuing to the rear trailer door. Agents were able to look inside the trailer through a small crevice in the door and observed several suspected undocumented aliens within the trailer. Agents then asked CANDELARIA where the key to the trailer was located. CANDELARIA stated that the key was in his pocket and voluntarily provided it to the agents. Agents immediately opened the trailer doors and discovered sixteen individuals, who following questioning were determined to be undocumented aliens.

Agents advised the complainant that the pad lock on the trailer door prevented the suspected undocumented aliens from being able to exit the trailer without assistance. Additionally, the lock on the trailer could not have been engaged by any person within the trailer. Agents subsequently placed CANDELARIA under arrest for violation of Title 8, United States Code, 1324 Alien Smuggling – Transportation.

Each of the undocumented aliens and CANDELARIA were transported to the El Cajon Border Patrol station for processing. Upon reviewing each undocumented alien's immigration history, Agents discovered that Defendant Jose PALACIOS-Hernandez, who had been inside the trailer, was possibly the group's foot-guide.

**STATEMENT OF DEFENDANT: (CANDELARIA)**

On July 10<sup>th</sup>, 2008, CANDELARIA provided a post-arrest statement and admitted to being a citizen and national of Mexico, lawfully admitted to the United States as a non-immigrant. CANDELARIA admitted to being engaged in alien smuggling on July 10<sup>th</sup>, 2008. CANDELARIA stated that he was to be paid \$200.00 per undocumented alien he successfully transported within the United States. CANDELARIA stated that on July 10<sup>th</sup>, 2008, he traveled to the area where he was subsequently arrested in a 1997 Freightliner tractor-trailer combination. CANDELARIA stated that when he arrived at the location where the undocumented aliens were; he exited his vehicle and went to the rear of the trailer. CANDELARIA stated that he then opened one of the trailer doors for the undocumented aliens. CANDELARIA then closed the door of the trailer after the undocumented aliens were inside and locked the door with the pad lock. CANDELARIA stated that he then placed the key into his pocket and entered the driver's cabin. CANDELARIA stated that he was going to transport the aliens to San Diego, California, where he would be given further direction by the smuggling organization. CANDELARIA said that he was preparing to depart when he learned that the Border Patrol was traveling to his location. Upon learning the Border Patrol was en route; CANDELARIA stated that he simply waited. CANDELARIA admitted that he knew alien smuggling was a violation of law.

**STATEMENT OF DEFENDANT: (PALACIOS)**

On July 10<sup>th</sup>, 2008, PALACIOS provided a post-arrest statement and admitted to being a citizen and national of Mexico illegally present in the United States. PALACIOS admitted to being the group's foot-guide. PALACIOS stated that he was being paid \$200.00 to guide the group of undocumented aliens from Mexico to the pick-up location in the United States. PALACIOS admitted that he knew each of the undocumented aliens within the group was not lawfully permitted to enter the United States. PALACIOS also admitted to knowing that smuggling and/or transporting undocumented aliens into the United States is a violation of law. PALACIOS also identified CANDELARIA as the individual near the trailer door as the undocumented aliens entered the trailer.

**STATEMENT OF MATERIAL WITNESS (ARGUMEDO)**

On July 10<sup>th</sup>, 2008, ARGUMEDO admitted to being a citizen and national of Mexico, without any documentation to enter or remain in the United States legally. ARGUMEDO stated that he agreed to pay \$2,700.00 to be smuggled into the United States. ARGUMEDO identified PALACIOS as the group's foot-guide. ARGUMENDO said that PALACIOS led the group into the United States to the location where the group boarded the tractor-trailer. ARGUMEDO said that PALACIOS told the group to remain quiet while they waited for the tractor-trailer. ARGUMEDO stated that when the truck arrived all of the undocumented aliens entered the

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trailer; the doors were then shut and locked. ARGUMEDO stated that a few moments later the group was arrested by the Border Patrol.

**STATEMENT OF MATERIAL WITNESS (ZAVALA)**

On July 10<sup>th</sup>, 2008, ZAVALA admitted to being a citizen and national of Mexico, without any documentation to enter or remain in the United States legally. ZAVALA stated that he agreed to pay \$2,500.00 to be smuggled into the United States. ZAVALA stated he was not certain that PALACIOS was the group's foot-guide. However, ZAVALA subsequently identified PALACIOS by photograph as being the person who was leading the group. ZAVALA stated that when the truck arrived, all of the undocumented aliens entered the trailer and the doors were then shut. ZAVALA was then shown photographs of each person associated with the smuggling event. ZAVALA stated that he recognized each photograph with the exception of photograph number eleven. Photograph number eleven was of Defendant CANDELARIA. ZAVALA stated that the person in the photograph eleven was not part of the group that crossed the border.

**STATEMENT OF MATERIAL WITNESS (GONZALEZ)**

On July 10<sup>th</sup>, 2008, GONZALEZ admitted to being a citizen and national of Mexico, without any documentation to enter or remain in the United States legally. GONZALEZ stated that he agreed to pay \$2,500.00 to be smuggled into the United States. GONZALEZ identified PALACIOS as the group's foot-guide. GONZALEZ stated that PALACIOS led the group across the U.S. / Mexico international border to the area where the group was arrested. GONZALEZ stated that when the truck arrived, all of the undocumented aliens entered the trailer. GONZALEZ stated he heard the door lock and he believed that he was not able to exit the trailer if needed. GONZALEZ stated that a few moments later the group was arrested by the Border Patrol.

Jeffrey Payer  
JEFFREY PAYER ICE  
W. McQuinn